



MAYOR CHRIS BEUTLER

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August 22, 2018

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW – Lobby Level  
Washington, DC 20554

*In Re Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79; *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84

Dear Ms. Dortch:

The City of Lincoln, NE files this letter in response to the allegations against the City contained in an *ex parte* filing of AT&T on August 6th in the above captioned proceedings. Far from what AT&T claims, Lincoln is proud of our success in partnering with private companies to deploy broadband and advanced wireless infrastructure.

In 2012, the City of Lincoln invested public funds in building a fiber conduit network in our community. The goal was to attract broadband providers and investment by greatly reducing the cost of constructing in the public Right-of-Way (ROW) and improving the speed to market. Following the city's actions, more than \$220 million in privately-owned broadband infrastructure has been deployed in our community. These investments are directly attributed to Lincoln's nationally recognized model of "broadband deployment through partnership."

In addition to the on-going expansion of our fiber conduit network the City of Lincoln developed and implemented a digital plan submission and plan review process to accelerate the Small-Cell permitting process. Advanced wireless technology will ultimately play a vital role in our community and Lincoln has planned accordingly in an effort to attract "Small Cell" projects.

The claims in AT&T's *ex parte* filing are particularly disappointing for the following reasons:

- AT&T is factually inaccurate and misleading in the assertions that they have "paused its 2018 deployment" in Lincoln. A review of our records fails to reveal any permit applications filed by AT&T for such a deployment, nor has AT&T requested to enter into a Master License Agreement with Lincoln. That means that AT&T either deployed without permission and unknown to the city, or AT&T provided a misleading statement to the Commission.

- AT&T's claim that "there is no competitive market for ROW access, as municipalities have a monopoly over ROW's and municipally-owned ROW infrastructure while charging monopoly rates" is again provably false. The public taxpayer typically purchases ROW **for more expensive rates** than private companies who purchase private easements. If any telecommunication provider desires to place their own infrastructure in the ROW, they can do so. AT&T has every right and currently does lease access to private property, private building(s), and purchases private easements to deploy their technology. The City has used market rates for private use of public property, whether that be for access to our infrastructure, access to land, or for placement of cell towers. Market rates ensure the public good is protected, and a fair competitive marketplace is maintained between all users of the public ROW, including cable TV, and natural gas companies that pay the franchise fees.
- AT&T's representation that Lincoln's annual recurring attachment fee is a barrier to deployment is false. Lincoln has researched our rates, submitted them to national companies for evaluation, and as a result has signed small cell agreements with three different companies. Recent research submitted by McAllen, Texas as part of the lawsuit brought against the state of Texas further proves Lincoln's rate lands right in the middle of the national range of fees assessed for small cell attachments.
- AT&T's assertion that "Non-cost based fees that many municipalities charge to access the ROW and/or municipally-owned ROW structures are the highest barrier to small cell deployments" is again demonstrably false. In 2016, industry representatives proposed that statewide legislation was needed to "deliver broadband to rural Nebraska." Lincoln staff, in partnership with the Nebraska League of Municipalities, offered to reduce costs to below market rates in return for a commitment to build out the entire state, or build anywhere in Nebraska by any specified date. Industry representatives quickly declined and admitted they had no intention of providing broadband to rural parts of our state or to any particular locations by a specific date.

While the City of Lincoln's position may appear to be the different from of AT&T's, we would welcome the opportunity to meet with AT&T in an effort to reach an agreement for small cell deployments in our community. Please keep in mind we must find a balance between community objectives and private interests. Lincoln's strong track record of building successful partnerships with broadband service providers clearly demonstrates our ability to find that balance.

Sincerely,



Chris Beutler  
Mayor of Lincoln

Cc Chairman Pai and Commissioners Carr, O'Rielly and Rosenworcel